



ATTORNEY DOCKET NO. 9336-9

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re: Timothy M. Crowder et al.

Confirmation No.: 5387

Serial No. 10/606,676

Group Art Unit: 3761

Filed: June 26, 2003

For: **APPARATUS, SYSTEMS AND RELATED METHODS FOR PROCESSING,
DISPENSING AND/OR EVALUATING NON-PHARMACEUTICAL DRY
POWDERS**

Date: October 14, 2003

Office of Patent Legal Administration
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

PETITION TO ACCORD THE PROPER FILING DATE

Sir:

As set forth in 37 CFR § 1.10(c) and MPEP § 506.02, Applicant hereby petitions to grant the proper filing date of June 26, 2003 rather than June 27, 2003 for the above-identified patent application as this was the date the application was deposited as "Express Mail" in the U.S. Postal Service. The following is enclosed as evidence of June 26, 2003 being the correct filing date for the application which was properly filed under 37 C.F.R. § 1.10:

1. A true and accurate copy of the Cover Sheet for the Application showing the Express Mail signature and date on Page 2;
2. A true and accurate copy of the Express Mail Pickup Service Statement dated June 26, 2003;
3. A true and accurate copy of the Track & Confirm from the United States Postal Service website (www.usps.com) indicating receipt of the Express Mail package at the Post Office on June 26, 2003 and delivery of the package at the USPTO on June 27, 2003; and
4. A true and accurate copy of our return post card and of the official filing receipt for this application, sent by the United States Patent and Trademark Office, showing that Applicant was improperly given the filing date of June 27, 2003 instead of the Express Mail date of June 26, 2003;

In re: Timothy M. Crowder et al.
Serial No. 10/606,676
Filed: June 26, 2003
Page 2 of 2

This petition is being filed promptly after Applicant became aware of the improperly accorded filing date. Accordingly, Applicant respectfully requests the granting of June 26, 2003 as the filing date pursuant to 37 CFR § 1.10.

On the basis that Applicant properly followed the requirements of 37 CFR § 1.10 and the USPTO failed to accord the proper filing date under MPEP § 505 and thus the need to file this petition is due to error on the part of the USPTO, it is applicant's belief that no fee is due with this petition. However, the Commissioner is authorized to charge any deficiency or credit any overpayment to Deposit Account No. 50-0220.

Respectfully submitted, .

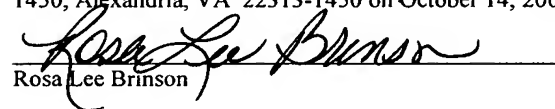


Julie H. Richardson
Attorney For Applicant
Registration No. 40,142

USPTO Customer No. 20792
Myers Bigel Sibley & Sajovec
Post Office Box 37428
Raleigh, North Carolina 27627
Telephone: 919/854-1400
Facsimile: 919/854-1401

Certificate of Mailing under 37 CFR 1.8

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Office of Patent Legal Administration, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on October 14, 2003.


Rosa Lee Brinson



PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

ATTY DOCKET NO.: 9336-9

DATE: June 26, 2003

**UTILITY PATENT APPLICATION TRANSMITTAL LETTER
AND FEE TRANSMITTAL FORM (37 CFR 1.53(b))**

Mail Stop PATENT APPLICATION
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Transmitted herewith for filing under 37 CFR 1.53(b) is:

- ☐ a patent application
☐ a Continuation ☐ a Divisional ☒ a Continuation-in-Part (CIP) Application of prior application no.: 10/434,009; filed May 8, 2003, the disclosure of which is hereby incorporated herein by reference in its entirety.
☐ and claims the benefit of Provisional Application Nos. 60/392,671 filed 6/27/02; and 60/440,513, filed 1/16/03, the disclosure of which is hereby incorporated herein by reference in its entirety.

Inventor(s) or Application Identifier:

Timothy M. Crowder, Durham, NC
Anthony J. Hickey, Chapel Hill, NC
Vanessa Boeckestein, Durham, NC

Entitled: **APPARATUS, SYSTEMS AND RELATED METHODS FOR PROCESSING,
DISPENSING AND/OR EVALUATING NON-PHARMACEUTICAL DRY POWDERS**

Correspondence Address:



20792

PATENT TRADEMARK OFFICE

Enclosed are:

1. ☒ Application Transmittal Letter and Fee Transmittal Form (*A duplicate is enclosed for fee processing*)
2. ☒ 54 pages of Specification (including 65 claims)
3. ☒ 16 sheets of Formal Drawings (35 USC 113)
4. ☐ Oath or Declaration
 - a. ☐ newly executed (*original or copy*)
 - b. ☐ copy from prior application (37 CFR 1.63(d) (*for continuation/divisional*) [Note Box 6 Below]
 - c. ☐ **DELETION OF INVENTOR(S)** (*Signed statement deleting inventor(s) named in the prior application*)
5. ☐ Application Data Sheet. See 37 CFR 1.76
6. ☐ Incorporation By Reference (*useable if box 4b is checked*)

The entire disclosure of the prior application, from which a copy of the oath or declaration is supplied under Box 4b, is considered as being part of the disclosure of the accompanying application and is hereby incorporated

by reference therein.


7. ☐ Microfiche Computer Program (*Appendix*)
8. ☐ Assignment papers (*cover sheet(s) and document(s)*)
9. ☒ Applicant claims small entity status. See 37 CFR 1.27.
10. ☐ Information Disclosure Statement, PTO-1449, and _____ references cited
11. ☐ Preliminary Amendment (*Please enter all claim amendments prior to calculating the filing fee.*)
12. ☐ English Translation Document
13. ☐ Certified Copy of _____ Application No. _____ ; Filed
14. ☐ Sequence Listing/ Sequence Listing Diskette
 a. ☐ computer readable copy
 b. ☐ paper copy
 c. ☐ statement in support
15. ☐ An Associate Power of Attorney
16. ☒ Return Receipt Postcard (MPEP 503) (*Should be specifically itemized*)
17. ☐ Other:

The fee has been calculated as shown below:

	Column 1 No. Filed	Column 2 No. Extra	Small Entity Rate Fee	Large Entity Rate Fee
BASIC FEE			\$375.00	\$ 750.00
TOTAL CLAIMS	65 - 20 =	45	x 09 = \$ 405.00	x 18 = \$
INDEP CLAIMS	7 - 3 =	4	x 42 = \$ 168.00	x 84 = \$
<input type="checkbox"/> MULTIPLE Dependent Claims Presented			+ 140 = \$	+ 280 = \$
<i>If the difference in Col. 1 is less than zero, Enter "0" in Col. 2</i>			Total \$ 948.00	Total \$

- ☒ A check in the amount of **\$948.00** to cover the filing fee is enclosed.
☐ A check in the amount of \$ _____ is enclosed to cover the filing fee, PLUS the Assignment Recordation fee (\$40.00).
☐ Please charge my Deposit Account No. 50-0220 in the amount of \$ _____.
☒ The Commissioner is hereby authorized to credit overpayments or charge the following fees associated with this communication to Deposit Account No. 50-0220:
 a. ☒ Additional filing fees under 37 CFR 1.16 for presentation of extra claims.
 b. ☒ Additional patent application processing fees under 37 CFR 1.17.

Respectfully submitted,



Julie H. Richardson
Registration No. 40,142

CERTIFICATE OF EXPRESS MAILING

Express Mail Label No. EV 353611696 US

Date of Deposit: June 26, 2003

I hereby certify that this correspondence is being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service under 37 CFR 1.10 on the date indicated above and is addressed to: Mail Stop PATENT APPLICATION, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450


Rosa Lee Brinson

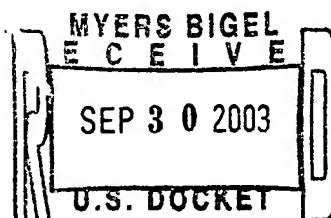
JAR

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
 United States Patent and Trademark Office
 Address: COMMISSIONER OF PATENTS AND TRADEMARKS
 P.O. Box 1450
 Alexandria, Virginia 22313-1450
 www.uspto.gov

APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY. DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/606,676	06/27/2003	3761	948	9336-9	16	65	7

20792
 MYERS BIGEL SIBLEY & SAJOVEC
 PO BOX 37428
 RALEIGH, NC 27627



CONFIRMATION NO. 5387

FILING RECEIPT



OC000000010920396

Date Mailed: 09/25/2003

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. If an error is noted on this Filing Receipt, please write to the Office of Initial Patent Examination's Filing Receipt Corrections, facsimile number 703-746-9195. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).

Applicant(s)

Timothy M. Crowder, Durham, NC;
 Anthony J. Hickey, Chapel Hill, NC;
 Vanessa Boekestein, Durham, NC;

Domestic Priority data as claimed by applicant

This application is a CIP of 10/434,009 05/08/2003
 which claims benefit of 60/379,521 05/10/2002
 and claims benefit of 60/392,671 06/27/2002
 and claims benefit of 60/440,513 01/16/2003

Foreign Applications

If Required, Foreign Filing License Granted: 09/24/2003

Projected Publication Date: To Be Determined - pending completion of Missing Parts

Non-Publication Request: No

Early Publication Request: No

** SMALL ENTITY **

Title

Apparatus, systems and related methods for processing, dispensing and/or evaluating non-pharmaceutical dry powders

Preliminary Class

128

**LICENSE FOR FOREIGN FILING UNDER
Title 35, United States Code, Section 184
Title 37, Code of Federal Regulations, 5.11 & 5.15**

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Office of Export Administration, Department of Commerce (15 CFR 370.10 (j)); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).



EV 353611696 US



UNITED STATES POSTAL SERVICE®

Customer Copy
Label T1-F June 2002

Post Office To Addressee

ORIGIN (POSTAL USE ONLY)		
PO ZIP Code	Day of Delivery <input checked="" type="checkbox"/> Next <input type="checkbox"/> Second <input type="checkbox"/>	Flat Rate Envelope <input type="checkbox"/>
Date in Mo. Day Year	<input checked="" type="checkbox"/> 12 Noon <input type="checkbox"/> 3 PM	Postage \$ 17.85
Time in <input type="checkbox"/> AM <input type="checkbox"/> PM	Military <input type="checkbox"/> 2nd Day <input type="checkbox"/> 3rd Day	Return Receipt Fee
Weight lbs. ozs.	Int'l Alpha Country Code	COD Fee Insurance Fee
No Delivery <input type="checkbox"/> Weekend <input type="checkbox"/> Holiday	Acceptance Clerk Initials TJW	Total Postage & Fees \$ 17.85

CUSTOMER USE ONLY	
METHOD OF PAYMENT: Express Mail Corporate Acct. No. X276081	

DELIVERY (POSTAL USE ONLY)		
Delivery Attempt	Time	Employee Signature
Mo. Day	<input type="checkbox"/> AM <input type="checkbox"/> PM	
Delivery Attempt	Time	Employee Signature
Mo. Day	<input type="checkbox"/> AM <input type="checkbox"/> PM	
Delivery Date	Time	Employee Signature
Mo. Day	<input type="checkbox"/> AM <input type="checkbox"/> PM	
<input type="checkbox"/> WAIVER OF SIGNATURE (Domestic Only) Additional merchandise insurance is void if waiver of signature is requested. I wish delivery to be made without obtaining signature of addressee or addressee's agent (if delivery employee judges that article can be left in secure location) and authorize that delivery employee's signature constitutes valid proof of delivery.		
<input type="checkbox"/> NO DELIVERY <input type="checkbox"/> Weekend <input type="checkbox"/> Holiday		
Customer Signature		

FROM: (PLEASE PRINT)	
PHONE 919 854 1400	
MYERS SIGEL SIBLEY & SAJOVEC PO BOX 37428 RALEIGH NC 27627-7428	
[JHR/r1b 9336.5]	

TO: (PLEASE PRINT)	
PHONE	
MS Patent Application Commissioner for Patents PO Box 1450 Alexandria VA 22313-1450	

PRESS HARD.
You are making 3 copies. FOR PICKUP OR TRACKING CALL 1-800-222-1811 www.usps.com



Track & Confirm

Shipment Details

You entered EV35 3611 696U S

Your item was delivered at 10:12 am on June 27, 2003 in ARLINGTON, VA 22202 to PATENT OFFICE. The item was signed for by J STECKEL.

Here is what happened earlier:

- ARRIVAL AT UNIT, June 27, 2003, 8:38 am, DULLES, VA 20102
- ENROUTE, June 26, 2003, 7:49 pm, RALEIGH, NC 27623
- ACCEPTANCE, June 26, 2003, 5:30 pm, RALEIGH, NC 27612

Notification Options

▶ Track & Confirm by email

[What is this?](#)

Go >

▶ Request Proof of Delivery

[What is this?](#)

Go >



POSTAL INSPECTORS
Preserving the Trust

[site](#) [map](#) [contact us](#) [government services](#)

Copyright © 1999-2002 USPS. All Rights Reserved. [Terms of Use](#) [Privacy Policy](#)

Track & Confirm

Enter label number:



[Track & Confirm FAQs](#)



OCT 16 2003

EV 353611696 US

Mailing Lab I
Label 11-F June 2002**EXPRESS
MAIL**

UNITED STATES POSTAL SERVICE®

Post Office To Address e

ORIGIN (POSTAL USE ONLY)				DELIVERY (POSTAL USE ONLY)			
PO ZIP Code	Day of Delivery <input type="checkbox"/> Next <input type="checkbox"/> Second		Flat Rate Envelope <input type="checkbox"/>	Delivery Attempt	Time <input type="checkbox"/> AM <input type="checkbox"/> PM	Employee Signature	
Date In Mo. Day Year	<input type="checkbox"/> 12 Noon <input type="checkbox"/> 3 PM		Postage \$	Mo. Day	<input type="checkbox"/> AM <input type="checkbox"/> PM	Employee Signature	
Time In <input type="checkbox"/> AM <input type="checkbox"/> PM	Military <input type="checkbox"/> 2nd Day <input type="checkbox"/> 3rd Day	Return Receipt Fee		Delivery Date	Time <input type="checkbox"/> AM <input type="checkbox"/> PM	Employee Signature	
Weight lbs. ozs.	Int'l Alpha Country Code	COD Fee	Insurance Fee	<input type="checkbox"/> WAVE OF SIGNATURE (Domestic Only) Additional merchandise insurance is void if waiver of signature is requested. If wish delivery to be made without obtaining signature of addressee, or addressee's agent (if delivery employee judges that article can be left in secure location) and authorize that delivery employee's signature constitute valid proof of delivery.			
No Delivery <input type="checkbox"/> Weekend <input type="checkbox"/> Holiday	Acceptance Clerk Initials	Total Postage & Fees \$		<input type="checkbox"/> NO DELIVERY <input type="checkbox"/> Weekend <input type="checkbox"/> Holiday Customer Signature			
CUSTOMER USE ONLY				FEDERAL AGENCY ACCT. NO. OR POSTAL SERVICE ACCT. NO.			
METHOD OF PAYMENT: Express Mail Corporate Acct. No. X276081				Federal Agency Acct. No. or Postal Service Acct. No.			
FROM: (PLEASE PRINT) PHONE 919 854 1400 MYERS BIGEL SIBLEY & SAJOVEC PO BOX 37428 RALEIGH NC 27627-7428 [JHR/-16 9336.9]				TO: (PLEASE PRINT) PHONE () MS Patent Application Commissioner for Patents PO Box 1450 Alexandria VA 22313-1450			
PRESS HARD. You are making 3 copies.				FOR PICKUP OR TRACKING CALL 1-800-222-1811 www.usps.com			

EV353611696US

MS Patent Application

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

JHR/-16

Date: 6-26-03Doc. No. 9336.9Serial No. TBAInventor: Crowder et al.Sir: 07-15-03 A08:45 IN
Kindly acknowledge receipt of the accompanying items listed below
by placing your receiving stamp hereon and return mailing:

- | | |
|---|---|
| <input checked="" type="checkbox"/> Application Transmittal and: | <input checked="" type="checkbox"/> Check \$ <u>948.00</u> |
| <input checked="" type="checkbox"/> Specification pages <u>54</u> | <input type="checkbox"/> IDS & PTO-1449 & <u> </u> refs. |
| <input checked="" type="checkbox"/> No. of Claims <u>65</u> | <input type="checkbox"/> Amendment & Amend. Transmittal |
| <input type="checkbox"/> Declaration & POA | <input type="checkbox"/> Preliminary Amendment |
| <input type="checkbox"/> Assignment and Fee | <input type="checkbox"/> Issue Fee |
| <input type="checkbox"/> Small Entity Statement | <input type="checkbox"/> Brief |
| <input checked="" type="checkbox"/> Formal Drawings <u>16</u> sheets | <input type="checkbox"/> Appeal |
| <input type="checkbox"/> Associate Power of Attorney | <input type="checkbox"/> Submittal of Priority Doc. |
| <input checked="" type="checkbox"/> Exp. Mail <u> </u> 1st Class Mail | |
| <input checked="" type="checkbox"/> Other: <u>Application filed Under 37 CFR 1.41 (c)</u> | |
| <u>Return Post Card</u> | |

Respectfully submitted,
MYERS BIGEL SIBLEY & SAJOVEC, P.A.
Attorneys for Applicant17410 U.S. PTO
10/606676
06/27/03